

PTO/SB/17 (07-06)

Approved for use through 01/31/2007. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,500.00

**Complete if Known**

Application Number	10/646,499
Filing Date	22 AUG 2003
First Named Inventor	CHOI, Daniel S. et al.
Examiner Name	David M. PUROL
Art Unit	3634
Attorney Docket No.	WEB-927-CIP-US

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 02-0400 Deposit Account Name: Baker & McKenzie

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180
Multiple Dependent Claims	
Fee (\$)	Fee Paid (\$)

**Total Claims**      **Extra Claims**      **Fee (\$)**      **Fee Paid (\$)**

- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

**Indep. Claims**      **Extra Claims**      **Fee (\$)**      **Fee Paid (\$)**

- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	_____ / 50 = _____	(round up to a whole number) x _____	_____	_____

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): PETITION TO REVIVE**Fees Paid (\$)**1,500.00**SUBMITTED BY**

Signature	<u>Daniel I. Roche</u>	Registration No. (Attorney/Agent) <u>30,797</u>	Telephone <u>312-861-8608</u>
Name (Print/Type)	<u>David I. ROCHE</u>	Date <u>04 AUG 2006</u>	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



8-7-06

PTO/SB/64 (07-06)

Approved for use through 09/30/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
WEB-927-CIP

First named inventor: Daniel S. CHOI and Adrian A. BRUNO

Application No.: 10/646,499

Art Unit: 3634

Filed: 22 AUG 2003

Examiner: David M. PUROL

Title: Floor Assembly for Barbecue Grill

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or  
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration  
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in  
the form of Petition to Withdraw a Holding of Abandonment etc. (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_  
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 08/07/2006 YPOLITE1 00000054 020400 106-6499  
☐ has been paid previously on 01 FC:1453 1500.00 DA  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

**4. STATEMENT:** The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

David I. Roche  
Signature

3 AUG 2006  
Date

David I. ROCHE

Typed or printed name

30,797

Registration Number, if applicable

Baker & McKenzie LLP

Address

312-861-8608

Telephone Number

130 E. Randolph Drive, Chicago, IL 60601

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Return Receipt Postcard

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

04 AUG 2006  
Date

Susan Vanderwalker  
Signature

Susan Vanderwalker

Typed or printed name of person signing certificate



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Attention: Examiner David M. Purol  
Group Art Unit: 3634

Applicants: Daniel S. Choi  
Adrian A. Bruno

Title: Floor Assembly for Barbecue Grill

Serial No: 10/646,499

Filing Date: 22 August 2003

I hereby certify that this correspondence  
has been sent by U.S. Postal Service  
First Class Mail addressed to the  
Commissioner of Patents and Trademarks,  
PO Box 1450, Alexandria, VA 22313-1450

Susan Vanderwalker 04 AUG 2006  
Susan Vanderwalker date

**PETITION TO WITHDRAW A HOLDING OF ABANDONMENT (37 CFR 1.181(a)  
OR, IN THE ALTERNATIVE, TO  
REVIVE AN UNINTENTIONALLY ABANDONED PATENT APPLICATION**

Honorable Commissioner  
of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

This is a *Petition to Withdraw Revive A Holding of Abandonment (37 CFR 1.181(a), or, In the Alternative, to Revive An Unintentionally Abandoned Patent Application*. The Notice of Abandonment is indicated as having been mailed on June 9, 2006. A copy of the Notice of Abandonment is enclosed herewith for reference.

The following is an outline of the events which have taken place in this application:

1. Applicant received an *Office Action* indicated as having been mailed on April 22, 2005. (Exhibit 1 attached hereto.) Applicant correctly calculated the initial response deadline as being July 22, 2005.

Applicant timely responded to the April 22, 2005 Office Action on July 18, 2005. (Exhibit 1-A attached hereto.)

2. Applicant next received from the Examiner an *Office Communication* indicated as having been mailed on October 27, 2005. (Exhibit 2 attached hereto.)

Since the Amendment filed by the Applicant on July 18, 2005 (received in the US Patent Office on July 21, 2005) was noted by the Examiner to be a *bona fide* attempt to reply, the Applicant was given a "TIME PERIOD OF ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the **mailing date of this notice** within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE." See Exhibit 2-A attached hereto, bottom of page 2.)

Applicant docketed the response deadline as November 27, 2005 (with an additional 5 months available for response, since the original time period was ONE MONTH.

Applicant timely responded to the October 27, 2005 *Office Communication* on November 17, 2005. (See Exhibit 2-A attached hereto.)

3. Applicant next received from the Examiner an *Office Communication* indicated as having been mailed on February 3, 2006. *Since there was no indication of a new deadline for response by the Examiner, Applicant assumed that the deadline set forth in the October 27, 2005 Office Communication continued to govern the response deadline.*

Applicant docketed the response for February 27, 2006; and responded to the Office Communication on February 10, 2006. (See Exhibit 3-A attached hereto.)

4. Applicant next received from the Examiner an *Office Communication* indicated as having been mailed on May 2, 2006. Since there was once again no indication of a new deadline for response set by the Examiner, and since the Examiner issued the *Office Communication* on May 2, 2006 (well past the April 27 final deadline for response), Applicant assumed that there was currently no official deadline for responding to the May 2, 2006 *Office Communication*.

However, in preparation for quickly responding thereto, Applicant made several telephone calls to the Examiner to discuss the merits of the Application and to create a strategy for that response. Applicant also discussed this matter with Richard Chilcot, Supervisor? for Group Art Unit 3634. It was during these telephone conversations that the Examiner indicated to the Applicant that the response deadline was past and argument was closed.

5. Applicant finally received a *Notice of Abandonment* indicated as having been mailed on June 9, 2006. (See Exhibit 5 attached hereto.) In the *Notice of Abandonment*, the Examiner indicates that that the replies received on 11/21/05 and 2/13/06 do “not constitute a proper reply, or a bona fide attempt at a proper reply to the non-final rejection”. (See Exhibit 5, page 2).

However, Applicant argues that replies to the previous *Office Communications* were both “proper” and “bona fide” in that each was filed in a timely manner – as quickly as possible - and that all replies presented arguments which the Examiner found “non-responsive”, but upon which the Examiner did not further elaborate.

Applicant respectfully requests that the June 9, 2006 *Notice of Abandonment* be withdrawn, and that the Examiner more fully explain his “non-responsive” citation, so that Applicant can more effectively argue the merits of the case.

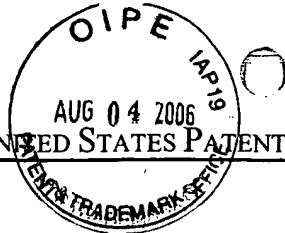
August 2, 2006

Respectfully,

A handwritten signature in black ink, appearing to read 'David I. Roche', with a stylized, cursive script.

David I. Roche  
Reg. No. 30,797

BAKER & McKENZIE LLP  
130 E. Randolph Drive  
Chicago, IL 60601  
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david.i.roche@bakernet.com



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,499	08/22/2003	Daniel S. Choi	217 P 927	9670

7590 04/22/2005

Matthew J. Gryzlo, Esq.  
WALLENSTEIN WAGNER & ROCKEY, LTD.  
53rd Floor  
311 South Wacker  
Chicago, IL 60606-6622

EXAMINER

PUROL, DAVID M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

7<sup>m</sup>  
MDC

Response to OA due:

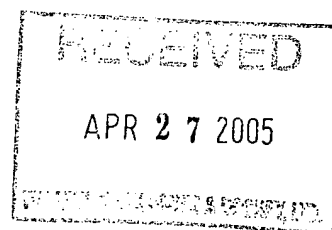
22 July 05

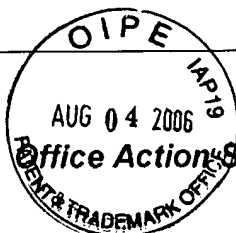
22 AUG (t1)

22 Sept (t2)

22 OCT (t3 final)

done  
18 July 2005





Application No.

10/646,499

Applicant(s)

CHOI ET AL.

Examiner

David M Purol

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



Art Unit: 3634

1. The proposed drawing correction filed on December 13, 2004 has been approved.



2. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not known if the applicant is claiming the shelf per se or in combination with the barbecue grill. While claim 1, line 1 recites "A shelf for a barbecue grill" and thereby sets forth that the claims are drawn to the shelf per se, lines 6-9 state that the detent of the first quick release member secures the shelf to the barbecue grill frame assembly in a first position and the first quick release member adjusts to a second position to allow for detachment of the shelf from the barbecue grill frame assembly which can only be an accurate recitation if the barbecue grill is a positively claimed element of the invention. Similarly for claim 2 which sets forth that the detent of the second quick release member secures the shelf to the barbecue grill frame assembly. Claim 5 states that the detent engages a bottom wall portion of the barbecue grill frame assembly in the first position which can only be an accurate recitation if the barbecue grill is a positively claimed element of the invention. Claim 8 defines structure of the barbecue grill frame assembly further implying that the claims are drawn to the combination of the shelf with the barbecue grill. Similarly for claims 10 and 11 which state that the spring members secures the shelf to the barbecue grill frame assembly. Claim 12 recites the sidewalls as engaging the cross members of the barbecue grill frame assembly, claim

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13 states that the transverse portion of the sidewalls of the shelf are positioned on an upper portion of the cross members of the barbecue grill frame assembly, claim 15 states that the shelf is cooperatively dimensioned with the interior space such that the shelf is positioned within the interior space, claim 16 states that the spring member is cooperatively dimensioned such that the spring member is removably received by the barbecue grill frame assembly, claim 17 states that the downturned portion engages the cross member of the barbecue grill frame assembly, each of which can only be an accurate recitation if the barbecue grill is a positively claimed element of the invention. Likewise, claims 18-26 suffer from the above noted defects. Elements of an invention to which it is necessary to refer in order to define other elements of the invention are to be positively included in the claims.

Claim 7 is further indefinite for it recites that the shelf is a wire rack, wherein, the claims from which claim 7 depends upon are not generic claims inasmuch as they are drawn to the embodiment of the shelf comprising a piece of sheet material.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5,6,8,9,18,19,21,25,26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lin '322. Lin '322 discloses a shelf 1 having a circular sidewall 11 depending from a bottom wall, quick release member 12 having hole portions

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121,122,123 defining therebetween a detent. The circular sidewall 11 defines the claimed first, second, third, fourth sidewalls. Inasmuch as the claims are drawn to the shelf per se, no patentable weight has been attributed to the barbecue grill.

4. Claims 1,3-5,8-10,12-26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Welch et al. Welch et al disclose a shelf 10 having a surface 14 which responds to the claimed bottom wall, sidewalls 12,16,18, quick release members 30 formed of a spring member. Inasmuch as the claims are drawn to the shelf per se, no patentable weight has been attributed to the barbecue grill.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:


(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,6,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. As to the number of sidewalls and quick release members employed, to have provided the shelf of Welch et al with additional sidewalls and quick release members for their explicit purpose of supporting the shelf is nothing more than a duplication of existing elements and as such does not constitute a patentable distinction.

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6. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Darbyshire, Heft, DiCenzo.

7. Any inquiry concerning this communication should be directed to David M Purol at telephone number (571) 272-6833.

  
David M Purol  
Primary Examiner  
Art Unit 3634

DMP  
(571) 272-6833  
April 15, 2005

**Notice of References Cited**

Application/Control No.

10/646,499

Applicant(s)/Patent Under

Reexamination

CHOI ET AL.

Examiner

David M Purol

Art Unit

3634

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-1,938,217	12-1933	DARBYSHIRE LEONARD H	248/250
	B	US-3,986,462	10-1976	Heft, Kenneth W.	108/188
	C	US-4,034,683	07-1977	DiCenzo, Guy J.	108/107
	D	US-4,601,247	07-1986	Welch et al.	108/152
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Docket No. WEB-927-CIP  
Appl./Control Number 10/646,499

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Attention: Examiner David M. Puro  
Group Art Unit: 3634

Applicants: Daniel S. Choi  
Adrian A. Bruno

Title: Floor Assembly for Barbecue Grill

Serial No: 10/646,499

Filing Date: 22 August 2003

I hereby certify that this correspondence  
has been sent by U.S. Postal Service  
First Class Mail  
addressed to the Commissioner of Patents  
and Trademarks, PO Box 1450, Alexandria,  
VA 22313-1450

Susan Vanderwalker 17 Nov 2005  
Susan Vanderwalker date

**AMENDMENT AND REPLY  
TO OFFICE COMMUNICATION**

Honorable Commissioner  
of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

This letter is in response to the Office Communication indicated as having been mailed on October 25, 2005. Please amend the above-identified application as follows:

**Amendments to the Claims** begin on page 2 of this paper.

**Remarks/Arguments** begin on page 7 of the paper.

**AMENDMENTS TO THE CLAIMS**

This listing of claims will replace all prior versions, and listing, of claims in the application:

**LISTING OF CLAIMS**

Claims 1-26 (cancelled)

Claim 27 (currently amended): A barbecue grill assembly comprising:

an upper assembly formed from a plurality of upper frame members, the upper assembly adapted to support a cooking chamber;

a lower assembly having a shelf and a plurality of lower frame members, the shelf having at least one quick release member securing member, the quick release member securing member adapted to move between a first position, wherein the quick release member securing member slidingly engages a portion of an inner wall of the lower frame member, and a second position, wherein the quick release member securing member lockingly engages a generally downwardly facing surface of a lower frame member, wherein the generally downwardly facing surface is chosen from the group consisting of including a bottom surface, a corner surface, and a lower half of the lower frame member in the case of a circular or rounded lower frame member.

Claim 28 (currently amended): A barbecue grill assembly comprising:

a frame assembly formed from a plurality of frame members defining an interior space, the frame assembly adapted to support a cooking chamber, the frame assembly having at least one lower frame member; and,

a shelf generally positioned within the interior space, the shelf having at least one quick release member securing member, the quick release member securing member adapted to move between a first position, wherein the quick release member securing member slidingly engages a portion of an inner wall of the lower frame member, and a second position, wherein the quick release member securing member lockingly engages a generally downwardly facing surface of the lower frame member, wherein the generally downwardly facing surface is chosen from the

group consisting of including a bottom surface, a corner surface, and a lower half of the lower frame member in the case of a circular or rounded lower frame member.

Claim 29 (currently amended): A barbecue grill assembly comprising:

a frame assembly formed from a plurality of frame members defining an interior space, the frame assembly adapted to support a cooking chamber, the frame assembly having at least one lower frame member; and,

a shelf generally positioned within the interior space, the shelf having at least one quick release member securing member, the quick release member securing member adapted to move between a first position, wherein the quick release member securing member slidably engages a portion of an inner wall of the lower frame member, and a second position, wherein the quick release member securing member lockingly engages a generally downwardly facing surface of the lower frame member and engages an upper portion of the lower frame member to prevent lateral movement of the shelf, wherein the generally downwardly facing surface is chosen from the group consisting of including a bottom surface, a corner surface, and a lower half of the lower frame member in the case of a circular or rounded lower frame member.

Claim 30 (currently amended): A barbecue grill assembly comprising:

a frame assembly formed from a plurality of frame members defining an interior space, the frame assembly adapted to support a cooking chamber, the frame assembly having at least one lower frame member;

a shelf generally positioned within the interior space, the shelf having a quick release member securing member and a downturned portion;

the quick release member securing member being adapted to move between a first position, wherein the quick release member securing member slidably engages a portion of an inner wall of the lower frame member, and a second position, wherein the quick release member securing member lockingly engages a generally downwardly facing surface of the lower frame member, wherein the generally downwardly facing surface is chosen from the group consisting of including a bottom surface, a corner surface, and a lower half of the lower frame member in the case of a circular or rounded lower frame member;



the downturned portion being adapted to engage an outside surface of the lower frame member and the quick release member securing member being adapted to engage an inside surface of the lower frame member, wherein the downturned portion and the quick release member securing member resist lateral movement of the shelf.

Claim 31 (currently amended): A barbecue grill assembly comprising:

a frame assembly formed from a plurality of frame members defining an interior space, the frame assembly adapted to support a cooking chamber, the frame assembly having a lower frame member;

a shelf generally positioned within the interior space, the shelf having transverse member adapted to engage a top surface of the lower frame member, a downturned member adapted to engage an outside surface of the lower frame member, and a quick release member securing member; and,

a portion of the quick release member securing member having a detent at a tip of the portion, the portion being adapted to rotate about a generally horizontal axis between a first position, wherein the quick release member securing member slidingly engages a portion of an inner wall of the lower frame member, and a second position, wherein the detent lockingly engages a generally downwardly facing surface of the lower frame member, wherein the generally downwardly facing surface is chosen from the group consisting of including a bottom surface, a corner surface, and a lower half of the lower frame member in the case of a circular or rounded lower frame member.

Claim 32 (currently amended): A barbecue grill assembly comprising:

a frame assembly formed from a plurality of frame members defining an interior space, the frame assembly adapted to support a cooking chamber, the frame assembly having a lower frame member with a height;

a shelf generally positioned within the interior space, the shelf having transverse member adapted to engage a top surface of the lower frame member, a downturned member, and a quick release member securing member;

a portion of the quick release member ~~securing-member~~ having a detent at a tip of the portion, a distance between the transverse member and the detent being approximately equal to the height of the lower frame member;

the portion being adapted to rotate about a generally horizontal axis between a first position, wherein the quick release member ~~securing-member~~ slidingly engages a portion of an inner wall of the lower frame member, and a second position, wherein the detent lockingly engages a generally downwardly facing surface of the lower frame member, wherein the generally downwardly facing surface is chosen from the group consisting of including a bottom surface, a corner surface, and a lower half of the lower frame member in the case of a circular or rounded lower frame member; and,

the downturned portion being adapted to engage an outside surface of the lower frame member and the quick release member ~~securing-member~~ being adapted to engage an inside surface of the lower frame member, wherein the downturned portion and the quick release member ~~securing-member~~ resist lateral movement of the shelf.

Claim 33 (new): The barbecue grill assembly of claim 28, wherein the shelf is secured to and removable from the barbecue grill frame assembly without additional hardware.

Claim 34 (new): The barbecue grill assembly of claim 28 wherein the first quick release member is a spring member.

Claim 35 (new): The barbecue grill assembly of claim 28 wherein the shelf has a substantially planar bottom wall and four side walls.

Claim 36 (new): The barbecue grill assembly of claim 35 wherein the quick release member depends from one of the four side walls.

Claim 37 (new): The barbecue grill assembly of claim 36 wherein the shelf comprises a second quick release member depending from another of the four side walls.

Claim 38 (new): The barbecue grill assembly of claim 35, wherein the quick release member depends from the bottom wall.

Claim 39 (new): The barbecue grill assembly of claim 35 wherein at least one of the four sidewalls engages the at least one lower frame member.

Claim 40 (new): The barbecue grill assembly of claim 28 wherein the shelf is a wire rack.

Claim 41 (new): The barbecue grill assembly of claim 30 wherein the shelf has a substantially planar bottom wall and four side walls.

Claim 42 (new): The barbecue grill assembly of claim 41 wherein one of the four side walls has a transverse member, the downturned portion depending from the transverse member.

Claim 43 (new): The barbecue grill assembly of claim 42 wherein the shelf has a second transverse member and a second downturned portion, the second transverse member depending from another of the four side walls and the second downturned portion depending from the second transverse member.

Claim 44 (new): The barbecue grill assembly of claim 28 wherein the quick release member is biased towards the first position.

**REMARKS/ARGUMENTS**

The Applicants' representative has carefully reviewed the Examiner's Office Communication of October, 2005, in which the Examiner asserted that the amendment filed on July 21, 2005 was non-responsive because the combinations of claims 27-32 do not require a quick release member or a spring member. Consequently, claims 27-32 are hereby amended to substitute the term "quick release member" for the term "securing member." Consequently, the Applicants represent that the claims as amended are no longer distinct from the previously submitted claims 1-26 and can be considered by the Examiner. Furthermore, for reasons that are apparent, the amended claims clearly differentiate from the prior art cited in the Examiners April 22, 2005 office action and focus on different aspects, some of which have been previously examined in copending Application No. 09/927,897, which issued as U.S. Patent No. 6,739,558. Therefore, the Applicants believe that the claims are sufficiently distinguished from the prior art and are in condition for allowance.

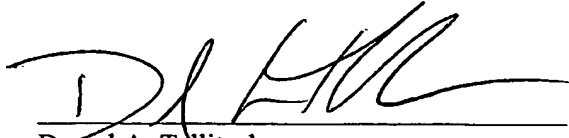
Please note that the Applicants have also submitted new *dependent* claims 33-44 bringing the total number of claims to 18. **Applicant believes that no fees are due in connection with this amendment. In the event that fees are due, you are hereby authorized to deduct the required amount from our Deposit Account No. 02-0400 (Baker & McKenzie). When identifying such a withdrawal, please use the Attorney Docket Number WEB-927-CIP.**

Docket No. WEB-927-CIP  
Appl./Control Number 10/646,499  
Amdt. dated November 17, 2005  
Reply to Office Communication of October 25, 2005

November 17, 2005

BAKER & MCKENZIE LLP  
130 E. Randolph Drive  
Chicago, IL 60601  
ph: +1 312 861 8024  
fax: +1 312 698 2433

Respectfully,

  
Daniel A. Tallitsch  
Reg. No. 55,821



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Exhibit 2

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,499	08/22/2003	Daniel S. Choi	217 P 927	9670

7590 10/27/2005

BAKER & MCKENZIE LLP  
DAVID ROCHE  
130 E. RANDOLPH DRIVE  
CHICAGO, IL 60601

EXAMINER

PUROL, DAVID M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 10/27/2005



Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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1 Month Due Date  
27 NOV 05

27 Dec (+1)  
27 Jan (+2)  
27 Feb (+3 final)

Web-127-GSP  
april 2005

EXAMINER
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ART UNIT	PAPER
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10252005

DATE MAILED:

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Commissioner for Patents

Newly submitted claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Previously submitted claims 1-26, drawn to a shelf, classified in class 211, subclass 134.
- II. Newly presented claims 27-32 drawn to a barbecue grill assembly, classified in class 126, subclass 41R.

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require a quick release member or a spring member. The subcombination has separate utility such as a shelf in a kitchen cabinet.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-32 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on July 21, 2005 canceling all claims drawn to the constructively elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

(Response due 27 Nov 2005!!)

David M. Purdi  
David M. Purdi  
Primary Examiner  
Art Unit: 3634

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Exhibit 3



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,499	08/22/2003	Daniel S. Choi	217 P 927	9670

7590 02/03/2006

BAKER & MCKENZIE LLP  
DAVID ROCHE  
130 E. RANDOLPH DRIVE  
CHICAGO, IL 60601

EXAMINER

PUROL, DAVID M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 02/03/2006

mmDC

Please find below and/or attached an Office communication concerning this application or proceeding.

last chance = 27 Feb 2006 !!





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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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01312006

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Newly submitted claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Previously submitted claims 1-26, drawn to a shelf, classified in class 211, subclass 134.
- II. Newly presented claims 27-44 drawn to a barbecue grill assembly, classified in class 126, subclass 41R.

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed. It is noted that claims 27-30, drawn to the combination, do not require a quick release member having a detent, a spring member, nor a shelf having a bottom wall and sidewall, as required by the originally presented subcombination claims. As such claims 27-30 are evidence that the combination does not rely upon the specific details of the subcombination for its patentability. The subcombination has separate utility such as a shelf in a kitchen cabinet. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-44 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on November 21, 2005 canceling all claims drawn to the constructively elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

*no deadline!!*

*David M. Furoi*  
David M. Furoi  
Primary Examiner  
Art Unit: 3634



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,499	08/22/2003	Daniel S. Choi	217 P 927 - <i>web - CIP</i>	9670
7590 05/02/2006			EXAMINER	
BAKER & MCKENZIE LLP DAVID ROCHE 130 E. RANDOLPH DRIVE CHICAGO, IL 60601			PUROL, DAVID M	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 05/02/2006

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO. <i>Web-927-GEP</i>
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*19/646,499*

EXAMINER
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ART UNIT	PAPER
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04262006

DATE MAILED:

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Commissioner for Patents

Newly submitted claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Previously submitted claims 1-26, drawn to a shelf, classified in class 211, subclass 134.
- II. Newly presented claims 27-44 drawn to a barbecue grill assembly, classified in class 126, subclass 41R.

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed. It is noted that claims 27-30, drawn to the combination, do not require a quick release member having a detent, a spring member, nor a shelf having a bottom wall and sidewall, as required by the originally presented subcombination claims. As such claims 27-30 are evidence that the combination does not rely upon the specific details of the subcombination for its patentability. The subcombination has separate utility such as a shelf in a kitchen cabinet. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-44 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on February 13, 2006 canceling all claims drawn to the constructively elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

*No deadline!*

*David M. Puro*  
David M. Puro  
Primary Examiner  
Art Unit: 3634



# UNITED STATES PATENT AND TRADEMARK OFFICE

*Exhibit 5*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,499	08/22/2003	Daniel S. Choi	217 P 927	9670

7590 06/09/2006

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EXAMINER

PUROL, DAVID M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment

Application No.

10/646,499

Examiner

David M. Purol

Applicant(s)

CHOI ET AL.

Art Unit


3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 27 October 2005.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☒ A reply was received on 11/21/05; 2/13/06 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111.
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

SPE Group  
3634  
Richard Chilcot  
571-272-6777

  
David M. Purol  
Primary Examiner  
Art Unit: 3634

Petitions to revive under 37 CFR 1.11:  
minimize any negative effects on patent term.

holding of abandonment under 37 CFR 1.181, should be promptly filed to